In the Supreme Court of the United States

OCTOBER TERM, 1975

NO. 74-1491

CARMINE TRAMUNTI, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

Petitioner contends, in essence, that there was insufficient evidence to support his conviction.

After a jury trial in the United States District Court for the Southern District of New York, petitioner was convicted of conspiring to facilitate the transportation, concealment and sale of, and to distribute, narcotics, in violation of 21 U.S.C. 846. He was sentenced to a term of fifteen years' imprisonment, followed by a special three year parole term, the sentence to run consecutively to his sentence on a prior unrelated conviction. The court of appeals affirmed (Pet. App. A).

The evidence showed the existence of a large, well organized conspiracy to buy, process and distribute narcotics in New York, New Jersey and Washington,

D.C. (Pet. App. 6a-18a). Petitioner's participation was shown by the testimony of a co-conspirator, Frank Stasi. Stasi testified that he heard another co-conspirator, Louis Inglese, tell petitioner that he expected "some goods" and would need some money, to which petitioner nodded affirmatively; that on another occasion Stasi carried messages between petitioner and Inglese (who at the time was in jail) after petitioner mentioned that he missed Inglese because without him "nothing goes right" and "there's nothing happening"; that on a different occasion Stasi heard petitioner instruct Ingles to "[t]ry to get him [co-conspirator Moe Lentini] out [of jail]" and Inglese remarked in petitioner's presence that getting Lentini released was "important to the organization" because Lentini was "very good with figuring and mixing"; and that thereafter Inglese told Stasi to advise Lentini that petitioner had "someone with property" and would try to get him out (Pet. App. 39a-42a).

The court of appeals correctly held (Pet. App. 42a) that the "sum total" of those conversations, viewed in the light most favorable to the government (*Glasser* v. *United States*, 315 U.S. 60, 80), was sufficient to enable the jury to infer that petitioner had important responsibilities in the narcotics organization. Accordingly, petitioner was properly found to be a co-conspirator. See *United States* v. *Manfredi*, 488 F.2d 588 (C.A. 7), certiorari denied, 417 U.S. 936; *United States* v. *Ruiz*, 477 F.2d 918, 919 (C.A. 2), certiorari denied, 414 U.S. 1004.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ROBERT H. BORK,
Solicitor General.

JULY 1975.

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